

**FINANCIAL OVERSIGHT AND MANAGEMENT BOARD  
FOR PUERTO RICO**



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Executive Director

**BY ELECTRONIC MAIL**

May 15, 2020

Mr. José R. Burgos  
Commissioner  
Puerto Rico Emergency Management Agency

Mr. Lorenzo González  
Secretary  
Puerto Rico Department of Health

Ms. Iris Santos Díaz  
Director  
Puerto Rico Office of Management and Budget

Dear Department Heads:

We are writing in response to your May 2, 2020 letter regarding document requests pertaining to the Government of Puerto Rico's attempt to acquire test kits in light of the ongoing COVID-19 pandemic.

The Oversight Board remains committed to executing its Congressionally-mandated duties, especially during the current health crisis and related economic impact. As part of this obligation, we remain committed to transparency and fiscal responsibility to prevent any fraud, waste, misuse, or abuse of public funds on the island.

Since April 6, 2020, the Oversight Board has sent five letters to the Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF") requesting all documents pertaining to the Government of Puerto Rico's attempt to purchase COVID-19 test kits from Apex General Contractors LLC and the execution of certain purchase orders with 313 LLC, respectively.<sup>1</sup> The Oversight Board

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<sup>1</sup> The Oversight Board sent these requests to AAFAF on April 6, 2020, April 9, 2020, April 12, 2020, April 15, 2020, and April 28, 2020.

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requested information including any and all documents concerning the negotiation and procurement process for each of these contracts and purchase orders, such as any written communications and other documentation related to such transactions (electronic or otherwise).

The Oversight Board's Contracts Review Policy (the "Policy"), issued pursuant to PROMESA Section 204(b), authorizes us to "review contracts to determine whether they are consistent with the applicable fiscal plan," and further permits the Oversight Board to "to expand the scope of its review." Furthermore, Executive Order 2020-24 (the "Order") recognizes and requires the Oversight Board's oversight of these specific contracts. Enacted to expedite COVID-19 related purchases by government agencies during the pandemic, the Order mandates all contracts regardless of value that were executed pursuant to the Order "shall be transmitted to the Oversight Board the date it is executed." As such, these requests are within the Oversight Board's authority under its Policy duly enacted in compliance with PROMESA, and contemplated by the Order. Furthermore, the Oversight Board is entitled to such information, pursuant to PROMESA Section 104(c) which provides the Oversight Board the "right to secure copies ... of ... records, documents, information, data, or metadata" in order to carry out its responsibilities under PROMESA.

In response to the Oversight Board's requests, we understand AAFAF issued two separate information requests (dated April 16, 2020 and April 29, 2020) to all government entities, including the Department of Health ("DOH"), the Puerto Rico Emergency Management Agency ("PREMA"), and the Office of Management and Budget ("OMB"), requesting any responsive documents. On April 28, 2020, we wrote AAFAF to address numerous deficiencies in the materials provided to the Oversight Board. For example, the information produced from DOH – and submitted to us through AAFAF – is incomplete, and riddled with screenshots of email segments without many of the attachments. On May 2, 2020, AAFAF responded and forwarded some additional materials from PREMA and OMB.

Having received and carefully reviewed all submitted records and information, we have concluded the DOH and PREMA have failed to produce all necessary documentation. The submissions received do not contain any documentation or communications prior to March 26, 2020, the date in which Contract No. 2020-COVI-19-00 between PREMA and Apex General Contractors LLC (the "Apex Contract") was executed.

With regards to the 313 LLC purchase orders, AAFAF has failed to furnish documents and communications in connection with Purchase Order No. 00071-0000052646 ("313 Purchase Order

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I”)<sup>2</sup> and Purchase Order No. 0071-0000052655 (“313 Purchase Order II,”<sup>3</sup> and collectively with Purchase Order I, the “313 Purchase Orders”). For its part, OMB has delivered records pertaining to 313 Purchase Order I, but has failed to deliver all necessary information pertaining to 313 Purchase Order II.

In addition, our review of the provided documentation revealed references to certain purchase orders made by PREMA with Maitland 175, Inc., for the acquisition of COVID-19 test kits and other equipment (collectively, the “Maitland Purchase Orders”).<sup>4</sup> As of the date of this letter, we have not received all information regarding the Maitland Purchase Orders.

In its May 2, 2020 letter, AAFAF recommended the Oversight Board request both the DOH and PREMA provide us with all documentation and communications related to the procurement and negotiation process which led to the execution of the above-referenced contract. *See* May 2, 2020 Letter from O. Marrero Díaz to N. Jaresko (attached as Exhibit A). AAFAF remains obligated to provide this information, as AAFAF was created to be both the “reporting agent of all entities of the Government of Puerto Rico” and “the government entity responsible for the collaboration, communication, and cooperation between the Government of Puerto Rico and [the Oversight Board].” Act 2-2017, § 5(a). However, given their poor response to date and in the interests of time, we have chosen to also make the document requests directly to you.

Accordingly, pursuant to Sections 104(c), 104(f)(2), and 204(b) of PROMESA, the Oversight Board requests you provide the following information:

1. Copies of all materials pertaining to communications with any and all vendors during the negotiation and procurement of what eventually became the Apex Contract, 313 Purchase Orders, and Maitland Purchase Orders, including but not limited to all offers and counteroffers, all solicitations of offers, requests for proposal, all received offers, and all internal analyses used to assess and award contracts;
2. Copies of any and all written communications (paper and electronic) made prior to March 26, 2020, including but not limited to texts, emails, and letters, related to the procurement and negotiation process that led to the execution of the Apex Contract;

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<sup>2</sup> 313 Purchase Order I is a document dated March 20, 2020 memorializing an agreement between the DOH and 313 LLC to purchase 1,500 units of COVID-19 test kits for \$67,500.00.

<sup>3</sup> 313 Purchase Order II is a document dated March 24, 2020 memorializing an agreement between the DOH and 313 LLC to purchase 100,000 COVID-19 test kits for \$3,600,000.00.

<sup>4</sup> These purchase orders for the acquisition of COVID-19 materials and diagnostic equipment involve more than \$13 million of contracts between PREMA and Maitland 175, Inc.

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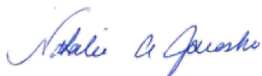
3. Copies of the items listed in Exhibit B (attached) comprising the missing and/or otherwise incomplete portions of emails and other written communications previously submitted regarding the Apex Contract;
4. Copies of any and all documentation and communications (paper or electronic), including but not limited to texts, emails, and letters, related to the procurement and negotiation process that led to the execution of the 313 Purchase Orders; and
5. Copies of any and all documentation and communications, (paper or electronic) including but not limited to texts, emails, and letters, related to the procurement and negotiation process that led to the execution of the Maitland Purchase Orders.

This requested information should be readily available to your agencies. In fact, we understand these documents may have already been provided to the Puerto Rico House of Representatives. Please be advised that we reserve the right to request additional information as we continue our review.

Should your agency fail to comply with these directives, the Oversight Board will take such actions as it considers necessary, consistent with Sections 104(c), 104(k), and 204(b)(5) of PROMESA, including preventing and seeking remedies for the enforcement or execution of these contracts through judicial proceedings.

Please provide the foregoing information no later than May 22, 2020. We look forward to working together for the benefit of the people of Puerto Rico and expect your prompt attention to this matter.

Sincerely,



Natalie A. Jaresko

cc: Mr. Omar J. Marrero  
Mr. Antonio Pabón



**GOVERNMENT OF PUERTO RICO**  
**Puerto Rico Fiscal Agency and Financial  
Advisory Authority**

**BY ELECTRONIC MAIL**

May 2, 2020

Ms. Natalie Jaresko  
Executive Director  
The Financial Oversight and  
Management Board for Puerto Rico  
P.O. Box 192018  
San Juan, PR 00919-2018

***Re: FOMB's April 28, 2020 Request for Information Concerning Rapid Test  
Kits and Emergency Contracting***

Dear Ms. Jaresko:

We hereby make reference to your letter dated as of April 28, 2020 ("Letter"). In the Letter, you acknowledge receipt of several documents produced by the Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF") to the Financial Oversight and Management Board ("Oversight Board") in response to a first request for information sent on April 15, 2020 (the "Request"). The Request relates to the procurement and purchase process of a purchase order for COVID-19 Rapid Tests kits (the "Purchase Orders").

In your letter, you allege the documents and materials sent to the Oversight Board by AAFAF "fall short" of what was requested in your prior letters. You also refer to either incomplete documents or missing credentials to access documents.<sup>1</sup> Even though AAFAF produced thousands of pages of documents, you stated that the Government of Puerto Rico's ("Government") refusal to comply with your information requests was "worrisome", thereby implying ulterior motives. Without evidence to sustain such comments, such rhetoric is truly unnecessary for the cooperative working relationship that should exist between the Oversight Board and the Government. The record itself simply rebuts any allegation of "refusal" to comply with information request from the Government's part.

To further evidence AAFAF's willingness to comply with the request included in your Letter, on April 29, 2020, AAFAF sent a letter to the agencies involved in the purchase process, further reiterating the Oversight Board's request for information. A copy of your Letter was attached to said communication, and the agencies were provided until 10:00

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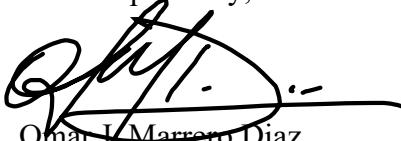
<sup>1</sup> It must be mentioned your Letter and its exhibit contain factually incorrect information. For example, you state individual AAFAF officials sent the produced documentation to the Oversight Board. This is simply false. All communications from AAFAF to the Oversight concerning the documents produced in this matter have been sent from the [fombreports@aafaf.pr.gov](mailto:fombreports@aafaf.pr.gov) email account.

A.M. today to comply with the Oversight Board's information request.<sup>2</sup> Consequently, during the day we have forwarded to you the information received from the Puerto Rico Emergency and Disaster Management Bureau of the Department of Public Safety and the Office of Management and Budget. In addition, the Puerto Rico Department of Treasury requested additional time, until Tuesday, May 5, 2020, at least, to comply with the Oversight Board's request.<sup>3</sup> The other agencies have not yet responded this additional request.

As I have explained before, AAFAF is not the legal custodian of the documents and materials you have requested. Although AAFAF did not generate the documents you have requested, we have worked diligently and in good faith to gather the requested information, but that information is not within AAFAF's possession. Thus, while AAFAF is not the custodian of the documents and materials you requested, AAFAF is continuing to follow up with the agencies involved and will forward the requested information as soon as we receive it. Nonetheless, I would recommend the Oversight Board to also send the information request directly to the agencies and instrumentalities that are the legal custodians of the documents and materials you seek.

Should you have any question regarding the foregoing, please feel free to contact me at your convenience. As always, I look forward to collaborating with the Oversight Board during these unprecedented times as we continue battling the threat of the COVID-19 pandemic for the best interests of the people of Puerto Rico.

Most respectfully,

A handwritten signature in black ink, appearing to read 'Omar J. Marrero Diaz', with a stylized flourish at the end.

Omar J. Marrero Diaz  
Executive Director

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<sup>2</sup> See Attachments 1 and 2 to this electronic mail.

<sup>3</sup> See Attachment 3 to this electronic email.

**EXHIBIT B**

**Information to be supplemented in connection with  
the Apex Contract and the 313 Contract**

1. Copies of all the communications and/or documents (*i.e.* emails, letters, memorandums, and proposals) prior to the execution of the Contracts in connection with the negotiations, award and procurement procedure.
2. Copies of the attachments included in the following emails sent to AAFAF by the Department of Health of Puerto Rico and forwarded to the Oversight Board by Carlos Saavedra from AAFAF on April 20, 2020 at 8:13 PM:
  - a. Email – No Subject (March 26, 2020, 12:04pm) (Email 4 Apex.jpg)
    - o *Recipient:* Mariel Rivera Rivera (DOH)
    - o *Sender:* Not identified.
    - o *Forward:* Yma González (Alister McKinley)

The attachment identified is:

- (i) “ASG-565 Contrato” (Word document)
- b. Email – COVID-19 Rapid Test (March 31, 2020, 3:54pm) (Email 26 Apex.jpg)
    - o *Recipient:* Mariel Rivera Rivera (DOH)
    - o *Sender:* Not identified.
    - o *Forward:* Yma González (Alister McKinley) and Bradley Mayo (Promedical)

The attachments identified are:

- (i) “CE Declaration PM” (PDF document);
  - (ii) “IFU-Promedical COVID-19” (PDF document); and
  - (iii) “41Fi 41FO Notice of incl...”(PDF document)
- c. Email – COVID Test (March 31, 2020, 4:20pm) (Email 28 Apex.jpg)
    - o *Recipient:* Mariel Rivera Rivera (DOH)

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- o *Sender:* Juan Maldonado
- o *Forward:* Yma González (Alister McKinley)

The attachments identified are:

- (i) “Artron Dossier” (PDF document); and
- (ii) “Brochure Artron” (PDF document)

3. The following emails, sent to AAFAF by the Department of Health of Puerto Rico and forwarded to the Oversight Board by Carlos Saavedra from AAFAF on April 20, 2020 at 8:13 PM, seem to belong to a chain of emails. Please provide the complete chain:

- a. Email - Covid-19 Rapid Test (March 26, 2020, 12:22am) (Email 1 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley)
- b. Email - No subject (March 26, 2020, 12:50pm) (Email 3 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - *Forward:* Yma González (Alister McKinley)
- c. Email - No subject (March 26, 2020, 2:49pm) (Email 5 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley)
- d. Email - No subject (March 26, 2020, 3:51pm) (Email 6 Apex.jpg)
  - o *Recipient:* Yma González (Alister McKinley)
  - o *Sender:* Adil Rosa Rivera (DOH)



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- e. Email - Documentos Apex (March 26, 2020, 4:02pm) (Email 7 Apex.jpg)
  - o *Recipient:* Yara M. Torres Marín (PREMA), Mariel Rivera Rivera (DOH)
  - o *Sender:* Mariel Rivera Rivera (DOH) and Juan Maldonado (Apex representative)
  - o *Forward:* Mariel Rivera Rivera (DOH) and Yma González (Alister McKinley)

- f. Email - Documentos Apex (March 26, 2020, 4:02pm) (Email 8 Apex.jpg)
  - o *Recipient:* Yara M. Torres Marín (PREMA), Mariel Rivera Rivera (DOH)
  - o *Sender:* Mariel Rivera Rivera (DOH) and Juan Maldonado (Apex representative)
  - o *Forward:* Mariel Rivera Rivera (DOH) and Yma González (Alister McKinley)

Note: This email is the same included in item (e.) but includes an additional portion of the email chain.

- g. Email - Factura Rapid Tests COVID-19 (March 26, 2020, 4:19pm) (Email 9 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH) and an email identified as [inegron@prema.gov](mailto:inegron@prema.gov) (PREMA)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley)

- h. Email - No subject (March 26, 2020, 3:40pm) (Email 10 Apex.jpg)
  - o *Recipient:* Yma González (Alister McKinley)
  - o *Sender:* Adil Rosa Rivera (DOH)

- i. Email - No subject (March 26, 2020, 5:13pm) (Email 11 Apex.jpg)
  - o *Recipient:* Adil Rosa Rivera (DOH) and Mariel Rivera Rivera (DOH)

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o *Sender:* Juan Maldonado (Apex representative)

o *Forward:* Yma González (Alister McKinley)

j. Email - No subject (March 26, 2020, 5:15pm) (Email 12 Apex.jpg)

o *Recipient:* Yma González (Alister McKinley)

o *Sender:* Mariel Rivera Rivera (DOH)

k. Email - No subject (March 26, 2020, 5:17pm) (Email 13 Apex.jpg)

o *Recipient:* Yara M. Torres Marín (PREMA)

o *Sender:* Mariel Rivera Rivera (DOH)

l. Email - No subject (March 26, 2020, 5:45pm) (Email 15 Apex.jpg)

o *Recipient:* Vanessa Figueroa Colón (PREMA)  
and Inegrón@prema.pr.gov (PREMA)

o *Sender:* Mariel Rivera Rivera (DOH)

m. Email - No subject (March 26, 2020, 7:22pm) (Email 18 Apex.jpg)

o *Recipient:* Vanessa Figueroa Colón (PREMA) Mariel Rivera Rivera (DOH)

o *Sender:* Yma González (Alister McKinley)

n. Email - No subject (March 26, 2020, 7:24pm) (Email 19 Apex.jpg)

o *Recipient:* Angela Soto Toro (DOT) and Mariel Rivera Rivera (DOH)

o *Sender:* Vanessa Figueroa Colón (PREMA)

o. Email - MOD SC 733 REVISADO INFORMACION SUPLIDOR  
APEX (March 26, 2020, 7:45pm) (Email 21 Apex.jpg)

o *Recipient:* Angela Soto Toro (DOT) and Mariel Rivera Rivera (DOH)

o *Sender:* Vanessa Figueroa Colón (PREMA)

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- p. Email - COVID KIT MADE IN USA (March 27, 2020, 9:00am) (Email 24 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister-McKinley)
  
- q. Email - FDA Reference (March 30, 2020, 11:41am) (Email 25 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister-McKinley)
  
- r. Email - COVID-19 RAPID TEST (March 31, 2020, 3:54pm) (Email 26 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Bradley Mayo (Promedical) and Yma González (Alister McKinley)
  
- s. Email - OPUSCULO PROMEDICAL (March 31, 2020, 3:57pm) (Email 27 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Not identified.
  - o *Forward:* Yma González (Alister McKinley)
  
- t. Email - COVID TEST (March 31, 2020, 4:20pm) (Email 28 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley)

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- u. Email - TESTS (March 31, 2020, 4:28pm) (Email 29 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley)
  
- v. Email - COVID-19 Rapid Test Kit - FDA (April 1, 2020, 12:23pm) (Email 30 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley), Tyler Brossart (501 Nutrition), Andrew Beuschel (501 Nutrition) and Jeff McKee (David McKee)
  
- w. Email - Clarity (April 1, 2020, 5:58pm) (Email 31 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley)
  
- x. Email - PROMEDICAL RAPID TESTS KITS (April 2, 2020, 9:50am) (Email 32 Apex.jpg)
  - o *Recipient:* Mariel Rivera Rivera (DOH)
  - o *Sender:* Juan Maldonado (Apex representative)
  - o *Forward:* Yma González (Alister McKinley)

4. Please confirm if there is a document entitled “Email 23 Apex” that we were supposed to receive. Note the DOH identified their emails in connection with the Apex Contract from 1 to 32, however, #23 (which may be identified as “Email 23 Apex”) is missing from the email sent to AAFAF by the Department of Health of Puerto Rico and forwarded to the Oversight Board by Carlos Saavedra from AAFAF on April 20, 2020 at 8:13 PM.